

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

VENETIAN CASINO RESORT, LLC

Plaintiff,

v.

JK MARKETING, LLC, et al.,

Defendants.

2:05-cv-1095-BES-LRL

ORDER

Currently before this Court is Plaintiff's Motion for Default Judgment (#36), which was filed on February 16, 2006.¹ In this Motion (#36), Plaintiff requests that the Court enter default judgment against JK Marketing, LLC ("Defendant") for failure to plead or otherwise defend as provided by the Federal Rules of Civil Procedure. Plaintiff further requests that the Court award damages in the principal amount of \$494,803.13 plus interest, attorney fees, and costs.

Federal Rule of Civil Procedure 55(b)(2) requires the party entitled to default judgment to apply to the court for the same, and authorizes the court "to determine the amount of damages," where necessary, "to enable the court to enter judgment or to carry it into effect." Accordingly, before this Court can enter a default judgment against Defendant, the Court must ascertain the proper amount of damages to which Plaintiff is entitled. To establish the amount due and owing upon default judgment, Plaintiff submitted the following: (1) the agreement underlying this action; (2) the Declaration of Rita B. Smith (#37); and (3) the Declaration of Shawn A. Mangano (#38).

¹ On February 13, 2006, the Clerk entered Default Judgment (#35) against Defendant JK Marketing, LLC, for failure to plead or defend pursuant to Federal Rule of Civil Procedure 55(b)(1).

1 Having reviewed these documents, the Court finds that Plaintiff is entitled to default
2 judgment in the principal amount of \$494,803.13 plus interest accruing at a rate of 18% per
3 annum from March 17, 2004 until all sums owed to Plaintiff under the agreement are paid in
4 full. (Smith Declaration (#37) at ¶¶ 4–6; Ex. A at ¶¶ 11, 12). The Court further finds that
5 Plaintiff is entitled to costs in the amount of \$1,438.50 pursuant to Federal Rule of Civil
6 Procedure 54(d)(1) and attorney's fees in the amount of \$11,163.00 pursuant to Nev. Rev.
7 Stat. § 18.010(1). (Mangano Declaration (#38) at ¶ 8); (Smith Declaration (#3), Ex. A at ¶ 12);
8 see also Kona Enters. v. Estate of Bishop, 229 F.3d 877, 883 (9th Cir. 2000) (holding that a
9 federal court sitting in diversity applies the law of the forum state regarding an award of
10 attorney's fees).

11 Finally, Plaintiff requests that the Court enter final judgment against Defendant. Federal
12 Rule of Civil Procedure 54(b) states that "[w]hen . . . multiple parties are involved [in an action],
13 the court may direct entry of final judgment as to one or more but fewer than all of the . . .
14 parties only upon an express determination that there is no just reason for delay and upon an
15 express direction for the entry of judgment." Pursuant to this Rule, the Court finds that there
16 is no just reason for delay in this case and that final judgment may be entered accordingly.

17 In accordance with the foregoing,

18 IT IS HEREBY ORDERED that Plaintiff's Motion for Default Judgment (#36) is granted
19 and that default judgment is entered against Defendant JK Marketing, LLC as follows:
20 (1) damages in the principal amount of \$494,803.13; (2) interest, pursuant to the terms of
21 Defendant's contract with Plaintiff, accruing at a rate of 18% per annum from March 17, 2004
22 until all sums owed to Plaintiff under said contract are paid in full; (3) attorney's fees in the
23 amount of \$11,163.00; and (4) costs in the amount of \$1,438.50.

24 IT IS FURTHER ORDERED that the Clerk of Court shall enter final judgment against
25 Defendant JK Marketing, LLC as there is no just reason for delay.

26 DATED: This 23RD day of June, 2006.

27 

28 UNITED STATES DISTRICT JUDGE